

REMARKS

In the December 30, 2005 Office Action, claims 1-3 and 5-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,834,370 to Nelson in view of U.S. Patent No. 3,688,658 to Stephen, claims 1, 3 and 5-8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,099,821 to Ceravolo in view of Stephen, and claim 4 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ceravolo and Stephen in view of Official Notice.

By the present amendment, claims 1, 2 and 6 are amended, and new claims 9-12 are added, leaving claims 1-12 pending in this application with claims 1 and 6 being independent. Independent claim 1 is amended to clarify that a catch is disposed adjacent the refractory member, and independent claim 6 is amended to recite that a spacing means is disposed adjacent the heat source means. Dependent claim 2 is amended to correct a typographical error.

The rejections under 35 U.S.C. § 103(a) are respectfully traversed because, none of the prior art, either alone or in combination, discloses or renders obvious all of the limitations of the claimed invention. In summary, none of Nelson, Stephen, or Ceravolo, either alone or in combination, disclose or render obvious a barbecue device having, among other elements, a refractory member with a catch disposed adjacent thereto, or a heat source means with a spacing means adjacent thereto.

Claim Rejections – 35 U.S.C. 103

Claims 1-3 and 5-8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson in view of Stephen. Claims 1, 3, and 5-8 also stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ceravolo in view of Stephen. A prima facie case of obviousness

has not been established with respect to the claimed invention as amended because all of the claim limitations are not found in the prior art.

Independent claim 1, as amended, recites a barbecue device including, among other elements, a tray supporting at least one refractory member and a catch disposed adjacent the refractory member. As amended, independent claim 6 recites a barbecue device including, among other elements, a tray supporting at least one heat source means and a spacing means disposed adjacent the heat source means.

As acknowledged in the Office Action, neither Nelson nor Ceravolo discloses a refractory member or a heat source means for a barbecue device. Stephen fails to cure the deficiencies of either Nelson or Ceravolo. Although Stephen discloses a barbecue grill having a tray with a plurality of refractory bodies 150 disposed on a grate 46, Stephen does not disclose or render obvious either a catch or a spacing means disposed adjacent to at least one of the refractory bodies, as recited in the claimed invention. In fact, as seen in Figure 13 of Stephen, nothing is provided between the refractory bodies 150 including a catch or even a space. Moreover, because no space is provided between the refractory bodies 150 of Stephen, it would not be obvious to modify to one skilled in the art the proposed combination of prior to provide a catch or spacing means between the refractory bodies 150.

In view of the above, a *prima facie* case of obviousness has not been established. Therefore, Applicant requests reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of independent claims 1 and 6.

Dependent claims 2-5, 7 and 8 are also believed allowable for the same reasons as discussed above regarding independent claims 1 and 6. Moreover, these claims recite additional features further distinguishing them from the prior art. Regarding dependent claim 4, Applicant respectfully requests evidence of the Official Notice that an ashtray with a handle and adjustable leg members are well known in the art.

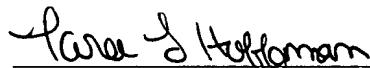
New Claims 9-12

New dependent claims 9 and 10 are believed to be allowable for the same reasons as discussed above with regard to independent claims 1, and new dependent claims 11 and 12 are believed to be allowable for the same reasons as discussed above with regard to independent claim 6. Moreover, these claims recite additional features further distinguishing them from the cited prior art. For example, dependent claim 9 recites that the tray supports a plurality of refractory members and that the catch is disposed between two of the refractory members. Also, dependent claim 11 recites that the heat source means includes a plurality of refractory members and that the spacing means provides space between the refractory members. In contrast, the proposed combinations of either Nelson and Stephen, or Ceravolo and Stephen fail to disclose anything between refractory members including a spacing means or a catch.

In view of the foregoing, Applicant believes claims 1-12 are in condition for allowance. Prompt and favorable treatment is respectfully solicited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (001058-00017). Any fees due are authorized above.

Respectfully submitted,



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